



Brettingham House, 98 Pottergate, Norwich NR2 1EQ  
T 01603 631 319 F 01603 628 464 E info@lanproservices.co.uk

Date: 19<sup>th</sup> March 2021

Our ref: 2582/2804

Greater Norwich Local Plan Team  
County Hall  
Martineau Lane  
Norwich  
NR1 2DH

Sent via email to: gnlp@norfolk.gov.uk

Dear Sir/Madam,

**Re: Regulation 19 Publication Greater Norwich Local Plan Representations by Lanpro on behalf of Osborne Developments (Norwich) Ltd. in relation to Policy GNLP0451: Land adjoining Sentinel House, (St Catherine's Yard) Surrey Street**

This letter comprise formal representations to the Regulation 19 Publication Greater Norwich Local Plan. They are made by Lanpro on behalf of Osborne Developments (Norwich) Ltd. in relation to Policy GNLP0451: Land adjoining Sentinel House, (St Catherine's Yard) Surrey Street.

A representation form has been completed in relation to our comments. This is attached at Appendix A of this letter.

At present, we consider the plan is unsound in respect of draft policy GNLP0451: 'Land adjoining Sentinel House, (St Catherine's Yard) Surrey Street'. Our reasons for this and the modifications we suggest would be necessary to make the policy sound, are set out below.

**Background**

Osborne Developments (Norwich) Ltd. own the site subject to draft policy GNLP0451: 'Land adjoining Sentinel House, (St Catherine's Yard) Surrey Street'.

The site benefits from an extant planning permission for a 252-bed student accommodation scheme. Osborne Developments (Norwich) Ltd. intended to commence construction on site in summer 2021.

These representations are made to protect their interests, should any revisions to the scheme during construction be required.

The draft policy states:

*Policy GNLP0451*

***Land adjoining Sentinel House, (St Catherine's Yard) Surrey Street (approx. 0.38 hectares) is allocated for residential development. This will provide a minimum of 40 homes, (or, if developed for student accommodation, a minimum of 200 student bedrooms). Commercial uses including small scale retail, financial and professional services, restaurants/cafes or other main town centre uses will be accepted at ground floor level where compatible with adjoining residential uses.***

*The development will achieve the following site-specific requirements:*

1. *Achievement of a high quality, locally distinctive design of a scale and form which respects its location within the City Centre Conservation Area, conserves and enhances adjoining heritage assets, including a number of grade II listed buildings, and their settings through careful design, massing and appropriate open space and landscaping; and protects amenity and outlook for existing and future residents;*
2. *If developed as purpose-built student accommodation, Affordable Housing contributions to be provided as a commuted sum in accordance with Norwich City Council Affordable Housing supplementary planning document (2019) or any successor.*
3. *A car-free development is appropriate to be provided in this location;*
4. *Provision of a safe and legible pedestrian route through the site to link Surrey Street to Queens Road and enable connections along Queens Road to the junction with All Saints Green and north to Ber Street via Chapel Loke. Vehicular access to the site should be taken from Surrey Street.*
5. *High quality landscaping, planting and biodiversity enhancements, open space including enhancement of trees along the frontage to Queens Road*

## **Details of why Policy GNLP0451 is unsound (in answer to Question 5 of the Form at Appendix A)**

There are three key areas which we consider make the policy unsound:

- i) Unjustified and ineffective heritage requirements.
- ii) Unjustified and ineffective approach to affordable housing.
- iii) Unjustified and ineffective approach to landscaping and biodiversity.

These are dealt with in turn, below.

### **i. Heritage Requirements**

The Planning (Listed Buildings and Conservation Areas) Act 1990 (the 1990 Act) provides for the protection of listed buildings and Conservation Areas and is largely expressed in the planning process through policies in regional and local planning guidance. This act is the primary legislative instrument addressing the treatment of listed buildings and Conservation Areas through the planning process.

Section 66 of the 1990 Act states that ‘...in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses’.

Section 72 adds that ‘...with respect to any buildings or other land in a Conservation Area, of any powers under any of the provisions mentioned in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area’.

It is established in caselaw that development which does not detract from the character or appearance of a Conservation Area is deemed to be in accordance with this legislation, meaning there is no statutory requirement to actively ‘enhance’.

Paragraph 200 of the NPPF supports this approach, outlining that *‘proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably’*. The paragraph also suggests in addition to this, local authorities should look for opportunities for new developments to enhance heritage assets, but does not suggest that it is appropriate to prescribe that development sites should enhance heritage assets at the plan making stage, in advance of proposals being put forward for consideration.

In summary, in our view, it is not appropriate for local authorities to require that development proposals enhance heritage assets through planning policies and, by inference, it is also our view, that it is not appropriate to require development on this site to enhance surrounding heritage assets. This is because it is possible development could be determined to be acceptable that is considered to give proper and sensitive regard to surrounding heritage assets, having a ‘neutral’ impact, which would constitute conservation, but not enhancement. In this situation it would not be proportionate or reasonable for the Council to require additional onerous requirements on the development to demonstrate enhancement, rather than conservation.

The onerous requirement to enhance heritage assets could prohibit the viability of a scheme and the allocation being delivered.

For these reasons the policy is not justified or effective.

## ii. **Affordable Housing**

We are aware that the Norwich City Council Affordable Housing supplementary planning document (2019) has been adopted since the extant planning permission for the site was granted, which requires affordable housing contributions to be provided for student housing schemes.

The extant planning permission was granted on the basis of no affordable housing contribution, meaning good quality materials and landscaping are able to be delivered. With the additional requirement proposed, it is not clear whether it would be possible to deliver the same quality of scheme, or any scheme at all. It is therefore imperative that that affordable housing is only sought subject to viability.

Whilst the Council have adopted the SPD, it did not go through any kind of examination. In addition caselaw on whether student housing should be liable for affordable housing is still evolving. It would be unjustified for the policy to fix this position without the caveat of ‘subject to caselaw’ or similar.

Lanpro commented on other ‘carried-over’ brownfield allocations in Norwich Coty Centre as part of the previous Regulation 18 consultation, explaining that other policies within the plan are capable of dealing with the requirement for affordable housing and therefore it does not need to be expressed in site allocation policies. This approach has been accepted by the Council in relation to those sites. We suggest the same approach is extended to this policy, meaning bullet point 2 of the policy would be deleted. In the

event the Council wish to retain part 2 of the policy we would suggest it should be updated with the caveat that it will be subject to viability and caselaw.

### iii. Landscaping and Biodiversity

The proposed wording for bullet point 5 of the policy in relation to landscaping, biodiversity and open space, results in more onerous requirements than the adopted site allocation policy.

There are separate planning policies for landscaping and biodiversity within the Plan. There is no justification for a more onerous landscape or biodiversity requirement from this site than other sites within the Plan. If the Council would still like to refer to this in the policy, we would suggest removing reference to 'high quality' would make the Policy sound.

It is not appropriate to require enhancement of the trees along Queens Road as these are outside the site boundary.

## Modifications that would be required to make Policy GNLP0451 sound (in answer to Question 6 of the Form at Appendix A)

Further to the comments made in our answer to Question 5 (above), proposed modifications to the policy are outlined below. Suggested deletions have been stricken and proposed amendments are underlined.

### *Policy GNLP0451*

***Land adjoining Sentinel House, (St Catherine's Yard) Surrey Street (approx. 0.38 hectares) is allocated for residential development. This will provide a minimum of 40 homes, (or, if developed for student accommodation, a minimum of 200 student bedrooms). Commercial uses including small scale retail, financial and professional services, restaurants/cafes or other main town centre uses will be accepted at ground floor level where compatible with adjoining residential uses.***

*The development will achieve the following site-specific requirements:*

- 1. Achievement of a high quality, locally distinctive design of a scale and form which respects its location within the City Centre Conservation Area, conserves ~~and enhances~~ adjoining heritage assets, including a number of grade II listed buildings, and their settings through careful design, massing and appropriate open space and landscaping; and protects amenity and outlook for existing and future residents;*
- 2. ~~If developed as purpose built student accommodation, Affordable Housing contributions to be provided as a commuted sum in accordance with Norwich City Council Affordable Housing supplementary planning document (2019) or any successor subject to viability and caselaw.~~*
- 3. A car-free development is appropriate to be provided in this location;*
- 4. Provision of a safe and legible pedestrian route through the site to link Surrey Street to Queens Road and enable connections along Queens Road to the junction with All Saints Green and north to Ber Street via Chapel Loke. Vehicular access to the site should be taken from Surrey Street.*



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5. ~~High quality landscaping, planting and biodiversity enhancements, and open space including enhancement of trees along the frontage to Queens Road~~

If you have any further queries please do not hesitate to contact us.

Yours sincerely

**Sarah Clinch MRTPI**  
**Associate Planner**



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## Appendix A: Representation Form

# **Regulation 19 Publication Greater Norwich Local Plan Representation Form**

## **What is this stage of the Local Plan about?**

This is the Publication draft version of the Greater Norwich Local Plan (GNLP), also called the Regulation 19 Pre-Submission Draft Plan. Representations at this stage should only be made on the legal compliance and soundness of the GNLP, that is: has the plan been prepared in accordance with all legal and procedural requirements; and does the plan meet the prescribed tests of soundness (see below).

## **Publication period**

The period for submission of representations has been extended to seven weeks **between 09.00 on Monday 1 February and 17.00 on Monday 22 March 2021**. Representations must be received by the Greater Norwich Local Plan Team within this period. No representations will be accepted outside of this period.

## **How to view the documents**

During the representations period, copies of the Greater Norwich Local Plan and other proposed submission evidence base documents will be available to view on the GNLP website at [www.gnlp.org.uk](http://www.gnlp.org.uk)

Due to the coronavirus pandemic, the complete plan and supporting documentation will only be published online in accordance with the latest Government guidance. However, we will endeavour to make limited relevant hard copy material available where possible. Requests should be made by phoning 01603 306603 or emailing [gnlp@norfolk.gov.uk](mailto:gnlp@norfolk.gov.uk)

## **Submitting representations**

It is easy to respond online at [www.gnlp.org.uk](http://www.gnlp.org.uk) but if you cannot do this please use this form to send us your comments.

Written representations can be submitted by email to [gnlp@norfolk.gov.uk](mailto:gnlp@norfolk.gov.uk) or posted to:

Greater Norwich Local Plan Team  
County Hall  
Martineau Lane  
Norwich  
NR1 2DH



## **Any questions?**

The guidance notes below should answer many of your questions but if you need any further information please contact the Greater Norwich Local Plan team on 01603 306603 or email [gntp@norfolk.gov.uk](mailto:gntp@norfolk.gov.uk). Please note that due to the coronavirus pandemic phone calls will go through to an answering service and we will return your call.

The full Statement of Representations Procedure can be found on the GNLP website at [www.gntp.org.uk](http://www.gntp.org.uk)

## **Guidance Notes to aid completion of the publication stage representation form**

**These guidance notes, produced by the Planning Inspectorate, are intended to assist you in completing the representation form. Please read the notes thoroughly before completing your form.**

### **1. Introduction**

- 1.1 Broadland, Norwich and South Norfolk Councils have published the Greater Norwich Local Plan in order for representations to be made on it before it is submitted for examination by a Planning Inspector. The Planning and Compulsory Purchase Act 2004, as amended [PCPA] states that the purpose of the examination is to consider whether the plan complies with the relevant legal requirements, including the duty to co-operate, and is sound. The Inspector will consider all representations on the plan that are made by 5pm on Monday 15<sup>th</sup> March 2021.
- 1.2 To ensure an effective and fair examination, it is important that the Inspector and all other participants in the examination process are able to know who has made representations on the plan. The GNLP authorities will therefore ensure that the names of those making representations can be made available (including publication on the GNLP website) and taken into account by the Inspector.

### **2. Legal Compliance and Duty to Co-operate**

- 2.1 You should consider the following before making a representation on legal compliance:
  - The plan should be included in the Local Planning Authorities [LPA's] current Local Development Scheme [LDS] and the key stages set out in the LDS should have been followed. The LDS is effectively a programme of work prepared by the LPA, setting out the plans it proposes to produce. It will set out the key stages in the production of any plans which the LPA proposes to bring forward for examination. If the plan is not in the current



LDS it should not have been published for representations. The LDS should be on the LPA's website and available at its main offices.

- The process of community involvement for the plan should be in general accordance with the LPA's Statement of Community Involvement [SCI] (where one exists). The SCI sets out the LPA's strategy for involving the community in the preparation and revision of plans and the consideration of planning applications.
- The LPA is required to provide a Sustainability Appraisal [SA] report when it publishes a plan. This should identify the process by which SA has been carried out, and the baseline information used to inform the process and the outcomes of that process. SA is a tool for assessing the extent to which the plan, when judged against reasonable alternatives, will help to achieve relevant environmental, economic and social objectives.
- The plan should comply with all other relevant requirements of the PCPA and the Town and Country Planning (Local Planning) (England) Regulations 2012, as amended [the Regulations].

2.2 You should consider the following before making a representation on compliance with the duty to co-operate:

- Section 33A of the PCPA requires the LPA to engage constructively, actively and on an ongoing basis with neighbouring authorities and certain other bodies over strategic matters during the preparation of the plan. The LPA will be expected to provide evidence of how they have complied with the duty.
- Non-compliance with the duty to co-operate cannot be rectified after the submission of the plan. Therefore, the Inspector has no power to recommend modifications in this regard. Where the duty has not been complied with, the Inspector cannot recommend adoption of the plan.

### 3. Soundness

3.1 The tests of soundness are set out in paragraph 35 of the National Planning Policy Framework (NPPF). Plans are sound if they are:

- **Positively prepared** – providing a strategy which, as a minimum seeks to meet the area's objectively assessed needs, and is informed by agreements with other authorities, so that unmet need from neighbouring authorities is accommodated where it is practical to do so and is consistent with achieving sustainable development;
- **Justified** – an appropriate strategy, taking into account the reasonable alternatives, and based on proportionate evidence;
- **Effective** – deliverable over the plan period and based on effective joint working on cross boundary strategic matters that have been dealt with rather than deferred, as evidenced by the statement of common ground; and
- **Consistent with national policy** – enabling the delivery of sustainable development in accordance with the policies in the NPPF.

- 3.2 If you think the content of the plan is not sound because it does not include a policy on a particular issue, you should go through the following steps before making representations:
- Is the issue with which you are concerned already covered specifically by national planning policy?
  - Is the issue with which you are concerned already covered by another policy in this plan?
  - If the policy is not covered elsewhere, in what way is the plan unsound without the policy?
  - If the plan is unsound without the policy, what should the policy say?

#### **4. General advice**

- 4.1 If you wish to make a representation seeking a modification to the plan or part of the plan you should set out clearly in what way you consider the plan or part of the plan is legally non-compliant or unsound, having regard as appropriate to the soundness criteria in paragraph 3.1 above. Your representation should be supported by evidence wherever possible. It will be helpful if you also say precisely how you think the plan should be modified.
- 4.2 You should provide succinctly all the evidence and supporting information necessary to support your representation and your suggested modification. You should not assume that you will have a further opportunity to make submissions. Any further submissions after the plan has been submitted for examination may only be made if invited by the Inspector, based on the matters that he or she identifies.
- 4.3 Where groups or individuals share a common view on the plan, it would be very helpful if they would make a single representation which represents that view, rather than a large number of separate representations repeating the same points. In such cases the group should indicate how many people it is representing and how the representation has been authorised.
- 4.4 Please consider carefully how you would like your representation to be dealt with in the examination: whether you are content to rely on your written representation, or whether you wish to take part in hearing session(s). Only representors who are seeking a change to the plan have a right to be heard at the hearing session(s), if they so request. In considering this, please note that written and oral representations carry the same weight and will be given equal consideration in the examination process.

**PART A - Personal details\***

\*(If an agent is appointed, you only need to complete the Title, Name and Job Title/Organisation (if applicable) boxes in 1) below but complete the full contact details of the agent in 2).

	<b>1. Personal Details</b>	<b>2. Agents Details (If applicable)</b>
<b>Title</b>		
<b>First Name</b>		
<b>Last Name</b>		
<b>Job Title (where relevant)</b>		
<b>Organisation (where relevant)</b>		
<b>Address</b>		
<b>Post Code</b>		
<b>Telephone Number</b>		
<b>Email Address</b>		

## PART B - Representation

(You can comment on any part of the plan (paragraph, table, diagram, policy or map) but please complete a separate form for each representation you wish to make).

### 3. To which part of the Local Plan does this representation relate?

(Paragraph, table/diagram, policy, map etc)

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### 4. Do you consider the Local Plan is:

Legally compliant	Yes	No
Sound	Yes	No
Complies with the Duty to co-operate	Yes	No

(Please tick as appropriate)

### 5. Please give details of why you consider the Local Plan is not legally compliant or is unsound or fails to comply with the duty to co-operate. Please be as precise as possible.

If you wish to support the legal compliance or soundness of the Local Plan or its compliance with the duty to co-operate, please also use this box to set out your comments

--

(Please continue on a separate sheet if necessary)

6. Please set out the modification(s) you consider necessary to make the Local Plan legally compliant and sound, in respect of any legal compliance or soundness matter you have identified at 5 above. (Please note that non-compliance with the duty to co-operate is incapable of modification at examination). You will need to say why each modification will make the Local Plan legally compliant or sound. It will be helpful if you are able to put forward your suggested revised wording of any policy or text. Please be as precise as possible.

(Please continue on a separate sheet if necessary)

**Please note:** In your representation you should provide succinctly all the evidence and supporting information necessary to support your representation and your suggested modification(s). You should not assume that you will have a further opportunity to make submissions.

**At this stage further submissions may only be made if invited by the Inspector, based on matters and issues he or she identifies for examination.**

7. If your representation is seeking a modification to the plan, do you consider it necessary to participate in examination hearing session(s)? (Tick box as appropriate)

No, I do not wish to participate in hearing session(s)	
Yes, I wish to participate in hearing session(s)	

Please note that while this will provide an initial indication of your wish to participate in hearing session(s), you may be asked at a later point to confirm your request to participate.

**8. If you wish to participate in the hearing session(s), please outline why you consider this to be necessary**

Please note the Inspector will determine the most appropriate procedure to adopt to hear those who have indicated that they wish to participate in hearing session(s). You may be asked to confirm your wish to participate when the Inspector has identified the matters and issues for examination.

**Disclaimer:**

Data Protection and Freedom of Information:

The Data Controller of this information under the General Data Protection Regulation (GDPR)2018/Data Protection Act 1998 will be Norfolk County Council, which will hold the data on behalf of Broadland District Council, Norwich City Council and South Norfolk Council. The purposes of collecting this data are:

- To assist in the preparation of the Greater Norwich Local Plan
- To contact you, if necessary, regarding the answers given in your form

The response forms received as part of the Greater Norwich Local Plan Regulation 19 publication stage will be made available for public viewing and submitted to the Secretary of State to be considered as part of a public examination by an independent planning inspector. By submitting this form you are consenting to your comments being stored by Norfolk County Council and the details being published for consultation purposes.

Once comments have been checked and verified they will be available online (with respondents' names) for others to see. Any representations which are deemed to contain offensive comments will be removed. Whilst we will include names on our website, we will remove personal contact details such as addresses, telephone numbers, emails and signatures before publishing.

Please note that anonymous comments will not be accepted as comments must be attributable for the public examination by the Planning Inspectorate.

See our Privacy notice at [www.gnlp.org.uk](http://www.gnlp.org.uk) for information on how we managed your personal information.

**Declaration**

I agree that the details within this form can be held by Norfolk County Council and that those details can be made available for public viewing and shared with Broadland District Council, Norwich City Council and South Norfolk Council for the purposes specified in the disclaimer above

**NAME**

**DATE**

**Your completed form should be returned to the Greater Norwich Local Plan team no later than 5pm on Monday 22<sup>nd</sup> March 2021.**

If you have any further questions about the ways to comment, or if you need consultation documentation in larger print, audio, Braille, or an alternative format or a different language, you can email us at [gnlp@norfolk.gov.uk](mailto:gnlp@norfolk.gov.uk) or phone us on 01603 306603.